IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 11089 of 2005

Between:

M. Sudarshan S/o Sri M. Bhoomaiah, aged 51 years,
Sarpanch, Gram Panchayath, Mallial (under removal) Karimnagar District.

... PETITIONER

AND

1. The District Collector (Panchayats), Karimnagar.

2. The Government of A.P., rep. by its Secretary to Government,
Panchayat Raj and R.D. Department AP Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of mandamus declaring the action of the first respondent in removing the petitioner from the post of Sarpanch, Mallial Gram Panchayat of Karimnagar District vide proceedings No.A1/2530/04-Pts, dated 06-05-2005 as arbitrary and illegal and set aside the same.

Counsel for the petitioner: MR. S. SATYAM REDDY

Counsel for the Respondents: G.P FOR PANCHAYAT RAJ

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus declaring the action of the first respondent in removing the petitioner from the post of Sarpanch, Mallial Gram Panchayat, Karimnagar District, vide proceedings No. A1/2530/04-Pts dated 06-05-2005, as arbitrary and illegal.

2. Heard the learned counsel for the petitioner and the learned G.P. for Panchayat Raj for the respondents.

3. Learned counsel for the petitioner contends that without conducting enquiry as contemplated under the provisions of the
A.P. Panchayat Raj Act ('the Act' for brevity), the impugned order has been passed; therefore, the same is in violation of the principles of natural justice.

4. On the other hand, learned Government Pleader for Panchayat Raj contends that an appeal lies to the Government against the order passed by the District Collector.

5. There cannot be any dispute that an alternative remedy is not a bar for exercise of jurisdiction under Article 226 of the Constitution of India, especially under the following three conditions. -

1. Where the principles of natural justice are violated.
2. Where the jurisdiction of the authority is under challenge.
3. Where the fundamental right of the petitioner has been infringed.

The first condition has no application to the facts of the present case inasmuch as after calling for explanation from the petitioner, the impugned order has been passed. Therefore, it cannot be said that the order under challenge suffers from violation of principles of natural justice.

6. Therefore, the writ petition is disposed of with a direction to the petitioner to avail

the alternative remedy of appeal before the Government within a period of three weeks from today and thereafter, the appeal shall be disposed of by the respondents, in accordance with law, after giving reasonable opportunity to the petitioner. Till then, the impugned order dated 06-05-2005 is suspended for a period of three weeks only. No order as costs.

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K.C. BHANU, J

May 17, 2005

Note: *Furnish C.C. in two days*

(B/o)

Glv/Mrr

Copy to. –

1. The District Collector (Panchayats), Karimnagar.

2. The Secretary to Government, Government of A.P.,
Panchayat Raj and R.D. Department AP Secretariat,
Hyderabad.

3. Two CCs to the GP for Panchayat Raj, High Court Buildings,
Hyderabad. (OUT)

Two CD copies

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